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IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT

BILASPUR (C.G.)

W.P.NO. 3165 / 2006 S.B.

SINGLE BENCH

PETITIONER

Smt. Jaya Singh W/o Shri
Tejbhan Singh Aged about 38
years, R/o Village Darima,
Tahsil Ambikapur Distt.
Surguja (C.G.)

P.R. No. 3219/06
Presented by Shri V.K. Pandey
dated 29/06/06

VERSUS

RESPONDENT

The Villagers Navapara Kala
Through : Ram Sagar S/O
Chamru aged about 40 years,
R/O Village Navapara Kala,
Tahsil Ambikapur Distt.
Surguja (C.G.) (One of the
Complainant)



WRIT PETITION UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA

मामला क्रमांक ...W.P.3165/सन् 2006

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p><u>30-6-2006</u></p> <p>Mr. Vineet Kumar Pandey, counsel for the petitioner.</p> <p>By this writ petition under Article 227 of the Constitution of India, the petitioner has questioned legality, propriety and correctness of the order dated 21-6-2006 passed by the Director, Panchayat, in the revision against the order dated 30-5-2006 passed by the Collector, Surguja, whereby he rejected the application of the petitioner regarding ordering for fresh enquiry into the allegations against the petitioner that she gave birth to third child after 26-1-2001 which disentitles her to continue as Sarpanch.</p> <p>Brief facts leading to filing of this writ petition, as mentioned in para 5, are that the villagers of Gram Panchayat: Navapara Kala made a complaint against the petitioner before the Collector that the petitioner, who is the Sarpanch of the village, has gave birth to third child after 26-1-2001. The complaint was registered by the Collector and the Collector issue memo to the Tehsildar, Ambikapur to give his report on the petitioner about the birth of third child, whereas the Naib Tehsildar who was not authorized by the Collector, submitted report on 7-4-2006 to which the petitioner moved an objection on 25-4-2006 with a prayer that a fresh enquiry report be called for by a fair person on the ground that the Naib Tehsildar, Darima, has no power to submit the report, because, the Collector, authorized the Tehsildar and that the Naib Tehsildar, Darima has personal enmity with her husband. The petitioner submitted copy of the F.I.R. lodged by Naib Tehsildar, Darima, against the husband of the petitioner. The Collector, after hearing counsel for the petitioner, rejected the application regarding calling for the fresh enquiry, however, ordered the matter to be fixed on 20th June, 2006, for final arguments. Against this order, the petitioner herein moved a revision before the Director, Panchayat. The Director, Panchayat, after hearing, held that there is no justification for granting stay on the interim order and the matter</p>	

मामला क्रमांक ...W.P.3165/.. सन् 2006

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Soma	<p>will be considered at the time of hearing of the appeal/revision against the final order passed by the Collector</p> <p>I have heard learned counsel for the petitioner, on admission.</p> <p>The petitioner has not been able to raise the case before this Court for invoking the jurisdiction of this Court under Article 227 of the Constitution of India. The Collector, Surguja, has simply rejected the application of the petitioner for ordering for conducting of fresh enquiry on the ground that the Naib Tehsildar, who conducted the enquiry, has enmity against the husband of the petitioner, as once the Naib Tehsildar lodged the F.I.R. against the husband of the petitioner. Mere lodging of report by the Naib Tehsildar against the husband of the petitioner <i>ipso facto</i> cannot be taken to be a ground for bias. Moreover, the Naib Tehsildar has already submitted the report and the petitioner is at liberty to challenge that report on its merit and whether any procedural impropriety has been committed by the Naib Tehsildar in conducting the enquiry and the Collector will decide the matter on its merit, in accordance with law. The petitioner is at liberty to raise the grounds for rejection of the report of the Naib Tehsildar and if she is able to establish that the report of the Naib Tehsildar is not fair or contrary to the factual situation by citing those instances, the petitioner can raise the point of bias also that the Naib Tehsildar has given this report on account of bias against the husband of the petitioner.</p> <p>Therefore, I do not find any ground for interference with the order passed by the Director, Panchayat. The petition is devoid of merit, same is liable to be dismissed and it is hereby dismissed, in limine.</p> <p>Consequently, M.(W.)P.No.2435/2006 and I.A.No.6266/2006 stand disposed of.</p>	<p>Sd/- L.C. Bhadoo Judge</p>